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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,997	05/23/2005	Zhenping Zhu	11245/47802	8859
26646 7590 01/19/2007 KENYON & KENYON LLP			EXAMINER	
ONE BROAD	WAY		NATARAJAN, MEERA	
NEW YORK, NY 10004			ART UNIT	PAPER NUMBER
			1609	
SHORTENED STATUTOR	RY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE	
. 31 г	DAYS	01/19/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)				
Office Action Summany	10/506,997	ZHU, ZHENPING				
Office Action Summary	Examiner	Art Unit				
	Meera Natarajan Ph.D.	1609				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period v - Failure to reply within the set or extended period for reply within the s	ATE OF THIS COMMUNICATIO 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	N. mely filed n the mailing date of this communication. ED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on May	<u>23, 2005</u> .					
2a) This action is FINAL . 2b) ☐ This						
3) Since this application is in condition for allower	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4)⊠ Claim(s) <u>1-30</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) <u>1-30</u> are subject to restriction and/or of	election requirement.					
Application Papers						
9)☐ The specification is objected to by the Examine	e r.					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:	priority under 35 U.S.C. § 119(a	a)-(d) or (f).				
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
	•					
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) Interview Summar Paper No(s)/Mail [
3) Information Disclosure Statement(s) (PTO/SB/08) 5) Notice of Informal Patent Application						
Paper No(s)/Mail Date 6) Other:						

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DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

To have a general inventive concept under PCT rule 13.1, the inventions need to be linked by a special technical feature. The special technical feature recited in claim 1 is an antibody which binds selectively to KDR. In view of this Lu et al. (*Int J Cancer. 2002 Jan 20; 97(3): 393-9*) reads on the claim. Lu et al. teach a human antibody that binds selectively to KDR. Therefore the technical feature recited in claim 1 is not special. Accordingly the groups are not so linked as to form a single general concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-17, drawn to an isolated human antibody or fragment thereof which binds selectively to KDR, an isolated polynucleotide which encodes an amino acid, an expression vector, and a recombinant host cell.

Group II, claim(s) 18-30, drawn to a method of neutralizing activation of KDR, inhibiting angiogenesis, and reducing tumor growth by administering antibody claimed in group I.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: As set forth above,

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in view of the teaching of Lu et al., the groups are not so linked as to form a single general concept under PCT Rule 13.1 because the technical feature of claim 1 is not special.

3. This application contains claims directed to the following patentably distinct species. If Group II is elected above, applicant is further required to elect one tumor and agent species.

Type of tumor:

- A. tumor of the colon
- B. breast tumor
- C. non-solid tumor

Type of agent:

- A. epidermal growth factor receptor antagonist
- B. fms-like tyrosine kinase receptor (flt-1) VEGFR-1
- C. chemotherapeutic agent
- D. radiation

The species of type of tumor and agent are distinct if the (1) the species are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the species do not overlap in scope, i.e., are mutually exclusive; and (3) species are not obvious variants. See MPEP § 806.05(j). In the instant case, the species of tumor types as claimed are independent or distinct because they comprise different cell populations, and effect different signaling pathways and proteins. The species of agent types as claimed are different in mechanism of action and

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outcome of treatment. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 20 and 22 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not

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distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

- 5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter and different searches in the patent literature, restriction for examination purposes as indicated is proper.
- 6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meera Natarajan Ph.D. whose telephone number is 571-272-0235. The examiner can normally be reached on Monday-Thursday, 7:30AM-5:00PM, ALT. Friday. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mary Mosher can be reached on 571-272-0906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MN

ZACHARIAH LUCAS PATENT EXAMINER